



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
1301 CONSTITUTION AVENUE NW
WASHINGTON, DC 20004

DATE: December 17, 2018

PREPARED BY: SA (b) (6), (b) (7)(C)

CASE #: OI-HQ-2017-CFR-0054

CROSS REFERENCE

TITLE: (b) (6), (b) (7)(C), SES, Region 6, EPA

CASE CLOSING REPORT

Subject(s)	Location	Other Data
(b) (6), (b) (7)(C)	Dallas, TX	

VIOLATIONS: 18 U.S.C § 1505 – Obstruction of proceedings before departments, agencies, and committees
18 U.S.C § 201 – Bribery of public officials and witnesses
18 U.S.C § 371 – Conspiracy
18 U.S.C § 1001 – Statements or entries generally
18 U.S.C § 2302(b)(8) – Whistleblower retaliation

ALLEGATION 1: On January 21, 2016, the U.S. Environmental Protection Agency (EPA), Office of Inspector General (OIG), Office of Investigations (OI), received notification that (b) (6), (b) (7)(C), Region 6, EPA, retaliated against (b) (6), (b) (7)(C) Region 6, EPA, by requiring a precondition to settle an EEO complaint (b) (6), (b) (7)(C) filed against Region 6 management.

FINDINGS: The investigation developed evidence to support the allegations that (b) (6), (b) (7)(C) retaliated against (b) (6), (b) (7)(C) by requiring a precondition to settle (b) (6), (b) (7)(C) EEO complaint, i.e., that (b) (6), (b) (7)(C) provide (b) (6), (b) (7)(C) an e-mail message retracting (b) (6), (b) (7)(C) sworn congressional testimony made before the HOCR on (b) (6), (b) (7)(C). The evidence further supported that the precondition was presented to (b) (6), (b) (7)(C) attorney, (b) (6), (b) (7)(C) by (b) (6), (b) (7)(C) Region 6, EPA, on behalf of (b) (6), (b) (7)(C). The evidence also supported a finding that (b) (6), (b) (7)(C) misrepresented information to (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) when (b) (6), (b) (7)(C) informed them that (b) (6), (b) (7)(C) offered to retract (b) (6), (b) (7)(C) sworn congressional testimony.

On February 2, 2018, a Notice of Proposed Suspension – 60 Calendar Days was issued to (b) (6), (b) (7)(C) however, (b) (6), (b) (7)(C) voluntarily retired on January 1, 2018.

RESTRICTED INFORMATION

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ALLEGATION 2: On January 21, 2016, the EPA, OIG, OI, received the allegation that (b) (6), (b) (7)(C) SES, Region 6, EPA, collaborated with (b) (6), (b) (7)(C) to condition the settlement of (b) (6), (b) (7)(C) EEO complaint on a prerequisite regarding the retraction of (b) (6), (b) (7)(C) sworn congressional testimony made before the HOCR on (b) (6), (b) (7)(C).

FINDINGS: The evidence supported a finding that (b) (6), (b) (7)(C) collaborated with (b) (6), (b) (7)(C) to propose a precondition to settle (b) (6), (b) (7)(C) EEO complaint, i.e., that (b) (6), (b) (7)(C) provide (b) (6), (b) (7)(C) an e-mail retracting the testimony (b) (6), (b) (7)(C) made before the HOCR on (b) (6), (b) (7)(C).

A memorandum of warning was issued to (b) (6), (b) (7)(C) for negligent performance of duties.

DISPOSITION: No further investigative action is warranted. This investigation is hereby closed.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
INSPECTOR GENERAL

MAY 05 2017

MEMORANDUM

SUBJECT: (b) (6), (b) (7)(C) SES,
Region 6, EPA

FROM: Patrick F. Sullivan, Assistant Inspector General for Investigations

TO: Mike Flynn, Acting Deputy Administrator, EPA

REFERENCE: OI-HQ-2017-CFR-0054

RESTRICTED INFORMATION

The U.S. Environmental Protection Agency (EPA) Office of Inspector General initiated this investigation based on information received regarding allegations of employee misconduct by (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) SES, Region 6, EPA

The enclosed report investigation details one allegation of misconduct that were investigated by the OIG and found to be supported. The one allegation is: (1) whether (b) (6), (b) (7)(C) collaborated with (b) (6), (b) (7)(C) to condition the settlement of (b) (6), (b) (7)(C) EEO complaint on a prerequisite regarding the retraction of (b) (6), (b) (7)(C) sworn congressional testimony made before the HOCR on (b) (6), (b) (7)(C) This retraction was to be in presented in an email to (b) (6), (b) (7)(C) EPA.

This information is submitted for your consideration and decision as to whether administrative action is warranted. Please have your staff respond to Assistant Inspector General for Investigations (AIGI) Patrick Sullivan at (202) 566-0308 or Sullivan.Patric@epa.gov with your decision within 30 days of the receipt of this document.

For your additional consideration, please note that (b) (6), (b) (7)(C) was the subject of an OIG investigation in 2012, outlined below:

Reference: (A) Case Title: (b) (6), (b) (7)(C)

Case No.:

Reference (A) contained information related to an investigation conducted by the OIG's Office of Investigations concerning allegations that (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

findings did not reveal evidence that (b) (6), (b) (7)(C) used the device to eavesdrop on the telephone conversations of co-workers. However, the investigation revealed that (b) (6), (b) (7)(C) provided false oral statements on two occasions to OIG special agents. Supporting documentation concerning Reference (A) will be provided upon request.

Attachment

1. Report of Investigation



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF THE INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS
1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004
REFERRAL REPORT OF INVESTIGATION

MAY 05 2017

(b) (6), (b) (7)(C)

SES, Region 6, EPA

OI-HQ-2017-CFR-0054

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Distribution:

Mike Flynn
Acting Deputy Administrator
Office of the Administrator
U.S. Environmental Protection Agency
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With Exhibits

Ryan Jackson
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Submitted by:

(b) (6), (b) (7)(C)

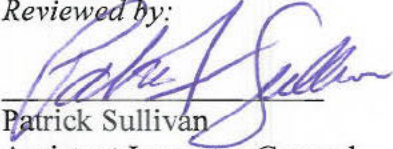
Special Agent
Office of Investigations

Approved by:

(b) (6), (b) (7)(C)

Special Agent in Charge
Office of Professional Responsibility
Office of Investigations

Reviewed by:


Patrick Sullivan
Assistant Inspector General
Office of Investigations

OFFICE OF INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS

CASE NO.: OI-HQ-2017-CFR-0054 DATE OPENED: 1/12/2017

CASE TITLE:

(b) (6), (b) (7)(C)

CASE AGENT(s):

(b) (6), (b) (7)(C)

REGION 6, EPA

CASE CATEGORY: EMPLOYEE INTEGRITY OFFICE: OFFICE OF INVESTIGATIONS HEADQUARTERS

JOINT AGENCIES: NONE JURISDICTION: DALLAS, TX

SECTION A – NARRATIVE

Introduction

On January 21, 2016, the U.S. Environmental Protection Agency (EPA), Office of Inspector General (OIG), Office of Investigations (OI), received notification that EPA Region 6 officials required an EPA employee to retract testimony provided before the U.S. House of Representatives Committee on Oversight and Government Reform (HOCR) as a precondition to settle an Equal Employment Opportunity (EEO) complaint filed by the EPA employee against Region 6 management. Investigative inquiry identified the affected employee as (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

As background, (b) (6), (b) (7)(C) testified before the HOCR concerning the (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) Contact with (b) (6), (b) (7)(C) revealed that, on (b) (6), (b) (7)(C) 2015, while negotiating the terms of a settlement agreement related to an EEO complaint (b) (6), (b) (7)(C) filed against Region 6 management, (b) (6), (b) (7)(C) Region 6, EPA, proposed to (b) (6), (b) (7)(C) retractor (b) (6), (b) (7)(C) testimony before the HOCR as a precondition to settle (b) (6), (b) (7)(C) EEO complaint against Region 6 management. The precondition would have required (b) (6), (b) (7)(C) to retract (b) (6), (b) (7)(C) HOCR testimony in an email to (b) (6), (b) (7)(C) for the

(b) (6), (b) (7)(C)

EPA;² in exchange, Region 6 would agree to extend (b) (6), (b) (7)(C) employment with the EPA until December 2017. [Exhibit 1]

Additional investigative findings revealed that on or about December 30, 2015, (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) Region 6, EPA, collaborated with (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) Region 6, EPA, to reach a settlement with (b) (6), (b) (7)(C)

Based on the foregoing, the OIG OI identified the following allegation that required investigation:

1. Whether (b) (6), (b) (7)(C) collaborated with (b) (6), (b) (7)(C) to condition the settlement of (b) (6), (b) (7)(C) EEO complaint on a prerequisite regarding the retraction of (b) (6), (b) (7)(C) sworn congressional testimony made before the HOCR on (b) (6), (b) (7)(C). This retraction was to be in presented in an email to (b) (6), (b) (7)(C)

In addition to the aforementioned allegation, the OIG identified inconsistencies between (b) (6), (b) (7)(C) statements to OI investigators and the evidence presented for (b) (6), (b) (7)(C) review. This is discussed below.

Possible Violation(s)

- | | |
|--------------------------|---|
| 1. 18 U.S.C. § 1505 | Obstruction of proceedings before departments, agencies, and committees |
| 2. 18 U.S.C. § 371 | Conspiracy |
| 3. 18 U.S.C. § 201 | Bribery of public officials and witnesses |
| 4. 18 U.S.C. § 1001 | Statements or entries generally |
| 5. 5 U.S.C. § 2302(b)(8) | Whistleblower retaliation |

Impact/Dollar Loss

Interference by EPA officials of congressional witnesses who testify before the HOCR could diminish public trust in the EPA and in government.

Synopsis

Allegation one is supported.

Details

Investigation Disclosed Allegation Supported

Allegation 1: (b) (6), (b) (7)(C) collaborated with (b) (6), (b) (7)(C) to condition the settlement of (b) (6), (b) (7)(C) EEO complaint on a prerequisite regarding the retraction of (b) (6), (b) (7)(C) sworn congressional testimony made before the HOCR on (b) (6), (b) (7)(C). This retraction was to be in presented in an email to (b) (6), (b) (7)(C)

² At the time of the events being investigated, (b) (6), (b) (7)(C) was the (b) (6), (b) (7)(C) for the EPA. (b) (6), (b) (7)(C) is currently serving as the (b) (6), (b) (7)(C) for the EPA.

³ At the time of the events being investigated, (b) (6), (b) (7)(C) was the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) is currently serving as the (b) (6), (b) (7)(C)

Allegation 1 Findings: Supported. The evidence supports a finding that (b) (6), (b) (7)(C) collaborated with (b) (6), (b) (7)(C) to propose a precondition to settle (b) (6), (b) (7)(C) EEO complaint, i.e., that (b) (6), (b) (7)(C) provide (b) (6), (b) (7)(C) an email retracting the testimony (b) (6), (b) (7)(C) made before the HOCR on (b) (6), (b) (7)(C).

Allegation 1 Investigative Results: A review of (b) (6), (b) (7)(C) email boxes revealed the below email message from (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) Region 6, EPA; and (b) (6), (b) (7)(C).

In an email message sent from (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) on December 30, 2015, at 1:30 p.m., (b) (6), (b) (7)(C) wrote:

Signed resignation today effective 30 December 2017
Signed SF 52 resigning effective 30 December 2017
Drop all allegations regarding
Retract statement made to Congress – E-mail to (b) (6), (b) (7)(C) “I would like to retract the Statement made to Congress” [Exhibit 2]

(b) (6), (b) (7)(C) email boxes also revealed a chain of messages related to (b) (6), (b) (7)(C) involvement with (b) (6), (b) (7)(C) and others in the settlement negotiations of (b) (6), (b) (7)(C) EEO complaint. The following information was extracted from a chain of emails titled “RE: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)”: (b) (6), (b) (7)(C)

In an email dated December 30, 2015, at 10:53 a.m., sent by (b) (6), (b) (7)(C) to (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) stated:

(b) (6), (b) (7)(C) se (b) (6), (b) (7)(C) response below. (b) (6), (b) (7)(C) is asking for an additional six months to the six months that we offered. Keep in mind that the shared service center may not be willing to effect (b) (6), (b) (7)(C) retirement as the current agreement stands.

In an email response from (b) (6), (b) (7)(C) to (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) on December 30, 2015, at 11:03 a.m., (b) (6), (b) (7)(C) wrote: (b) (6), (b) (7)(C) is checking on one last point. I need 1 hour.”

An email response from (b) (6), (b) (7)(C) to (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) on December 30, 2015, at 12:21 p.m. stated:

(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C) is on (b) (6), (b) (7)(C) way to see you. Unfortunately, no one is in the SSC that will be able to give us a definite answer on this matter. I suggest we leave it at the 1 year, 6 month period. [Exhibit 2]

Interview of (b) (6), (b) (7)(C)

On August 24, 2016, an interview of (b) (6), (b) (7)(C) was conducted. (b) (6), (b) (7)(C) declined to sign the consent form to be recorded. As such, the interview was not recorded. (b) (6), (b) (7)(C) was asked what

⁴ At the time of the events being investigated (b) (6), (b) (7)(C) was a (b) (6), (b) (7)(C) is currently serving as (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

⁵ (b) (6), (b) (7)(C) was representing (b) (6), (b) (7)(C) during the settlement negotiation regarding (b) (6), (b) (7)(C) EEO complaint.

knowledge and familiarity (b) (6), (b) (7)(C) had concerning the negotiation of a settlement agreement between the EPA and (b) (6), (b) (7)(C) responded that “yes, (b) (6), (b) (7)(C) was aware of the settlement agreement, but (b) (6), (b) (7)(C) was not involved in the process concerning the agreement.

(b) (6), (b) (7)(C) was also asked to comment on an email message sent to (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) by (b) (6), (b) (7)(C) dated December 30, 2015, stating:

Signed resignation today effective 30 December 2017
Signed SF 52 resigning effective 30 December 2017
Drop all allegations regarding
Retract statement made to Congress – E-mail to (b) (6), (b) (7)(C) “I would like to retract the Statement I made to Congress.” [Exhibits 2–3]

(b) (6), (b) (7)(C) reviewed the email message and stated, “based upon this, (b) (6), (b) (7)(C) did not recollect that the email was “related to the settlement agreement.” When (b) (6), (b) (7)(C) was asked what the language in the email meant, (b) (6), (b) (7)(C) responded, “I have no idea.” (b) (6), (b) (7)(C) was asked if (b) (6), (b) (7)(C) remembered anything at all concerning the email communication, (b) (6), (b) (7)(C) responded, “I’m sorry. I don’t.” (b) (6), (b) (7)(C) was asked what (b) (6), (b) (7)(C) was to do in exchange for the additional 6 months of employment, (b) (6), (b) (7)(C) responded, “I don’t know.” [Exhibits 2–3]

On March 14, 2017, subsequent to advisement and acknowledgement of (b) (6), (b) (7)(C) Garrity Warning Rights, an OIG follow-up interview was conducted with (b) (6), (b) (7)(C) stated that, even though email messages were sent to (b) (6), (b) (7)(C) concerning the negotiations of (b) (6), (b) (7)(C) settlement agreement, (b) (6), (b) (7)(C) was not involved in the process. Concerning the propriety of seeking a retraction of (b) (6), (b) (7)(C) testimony, (b) (6), (b) (7)(C) stated (b) (6), (b) (7)(C) made no judgment. [Exhibit 4]

Interview of (b) (6), (b) (7)(C)

On August 10, 2016, subsequent to advisement of (b) (6), (b) (7)(C) Garrity Warning Rights, (b) (6), (b) (7)(C) was interviewed about the discussions (b) (6), (b) (7)(C) had regarding the terms of the EEO settlement. (b) (6), (b) (7)(C) initially stated that (b) (6), (b) (7)(C) did not believe that an offer was made to (b) (6), (b) (7)(C) requiring retraction, because they “ultimately decided that retracting testimony would not be a good idea.” (b) (6), (b) (7)(C) then reviewed the December 30, 2015, email message (b) (6), (b) (7)(C) sent at 1:30 p.m. to (b) (6), (b) (7)(C) and others and said:

I ... sent something to (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) that outlined five or four conditions, which is that there be a signed 52 with (b) (6), (b) (7)(C) resigning effective December 30th of 2017; that (b) (6), (b) (7)(C) drop all of the allegations that (b) (6), (b) (7)(C) had made; that (b) (6), (b) (7)(C) retract the statements made to our Congress by emailing (b) (6), (b) (7)(C) “I would like to retract the statement I made to Congress” ... I wanted (b) (6), (b) (7)(C) to tell the truth. [Exhibits 5–6]

Inconsistencies Identified During This Investigation

On August 24, 2016, OIG special agents interviewed (b) (6), (b) (7)(C) and asked (b) (6), (b) (7)(C) about (b) (6), (b) (7)(C) knowledge and familiarity concerning the negotiation of the settlement agreement between the EPA and (b) (6), (b) (7)(C) responded that (b) (6), (b) (7)(C) was aware of the settlement agreement but was “not” involved in the process concerning the agreement.

During the interview, (b) (6), (b) (7)(C) was asked to comment on an email message sent by (b) (6), (b) (7)(C) to (b) (6), (b) (7)(C) on December 30, 2015, that stated in part, "Retract statement made to Congress – E-mail to (b) (6), (b) (7)(C) 'I would like to retract the Statement I made to Congress.' " (b) (6), (b) (7)(C) reviewed the email message and stated, "based upon this," (b) (6), (b) (7)(C) did not recollect that the email was "related to the settlement agreement." When (b) (6), (b) (7)(C) was asked what the language in the email meant, (b) (6), (b) (7)(C) responded: "I have no idea." [Exhibits 2–3]

On March 14, 2017, an OIG follow-up interview was conducted with (b) (6), (b) (7)(C) OIG Special Agents showed (b) (6), (b) (7)(C) the chain of email messages that identified (b) (6), (b) (7)(C) involvement in the negotiation of (b) (6), (b) (7)(C) EEO settlement—specifically, a message (b) (6), (b) (7)(C) sent stating in part, "I suggest we leave it at the 1 year, 6 month period." (b) (6), (b) (7)(C) reviewed the chain of e-mails and said, "This is the same [chain] of e-mails you showed me the first time we met." (b) (6), (b) (7)(C) then maintained that the statements (b) (6), (b) (7)(C) made to OIG Special Agents in (b) (6), (b) (7)(C) August 2016 interview indicating (b) (6), (b) (7)(C) was "not" involved in the process was accurate, and (b) (6), (b) (7)(C) added that (b) (6), (b) (7)(C) never responded to the email messages that were sent to (b) (6), (b) (7)(C) about the matter. [Exhibits 2–4]

Disposition

This Report of Investigation is being sent to Mike Flynn, acting Deputy Administrator, Office of the Administrator, Immediate Office, EPA, for any administrative actions deemed appropriate.

SECTION B – ENTITIES AND INDIVIDUALS

Name of Person: (b) (6), (b) (7)(C)
Title & Company: (b) (6), (b) (7)(C) Region 6, EPA
Role: Subject
Business Address: (b) (6), (b) (7)(C)
Business Phone: (b) (6), (b) (7)(C)
EPA Employee: Yes

Name of Person: (b) (6), (b) (7)(C)
Title & Company: (b) (6), (b) (7)(C) Region, 6 EPA
Role: Co-subject
Business Address: (b) (6), (b) (7)(C)
Business Phone: (b) (6), (b) (7)(C)
EPA Employee: Yes

Name of Person: (b) (6), (b) (7)(C)
Title & Company: (b) (6), (b) (7)(C) Region 6, EPA
Role: Witness
Business Address: (b) (6), (b) (7)(C)
Business Phone: (b) (6), (b) (7)(C)
EPA Employee: Yes

Name of Person: (b) (6), (b) (7)(C)
Title & Company: (b) (6), (b) (7)(C) Region 6, EPA
Role: Witness
Business Address: (b) (6), (b) (7)(C)
Business Phone: (b) (6), (b) (7)(C)
EPA Employee: Yes

Name of Person: (b) (6), (b) (7)(C)
Title & Company: (b) (6), (b) (7)(C)
Role: Witness
Business Address: (b) (6), (b) (7)(C)
Business Phone: (b) (6), (b) (7)(C)
EPA Employee: No

Name of Person: (b) (6), (b) (7)(C)
Title & Company: (b) (6), (b) (7)(C)
Role: Witness
Business Address: (b) (6), (b) (7)(C)
Business Phone: (b) (6), (b) (7)(C)
EPA Employee: Yes

Name of Person:

(b) (6), (b) (7)(C)

Title & Company:

EPA

Role:

Witness

Business Address:

Business Phone:

(b) (6), (b) (7)(C)

EPA Employee:

Yes

SECTION C – PROSECUTIVE STATUS

On October 27, 2016, the United States Attorney's Office (USAO) Fraud and Public Corruption Section, Washington, DC, declined to prosecute (b) (6), (b) (7)(C) for the circumstances related to (b) (6), (b) (7)(C) conduct, specifically the violation of 18 U.S.C. § 1505, "Obstruction of proceedings before departments, agencies, and committees." The USAO declined (b) (5), (b) (7)(E) (b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

EXHIBITS

DESCRIPTION	
1.	Case Initiation
2.	Memorandum of Activity – Review of email boxes/ (b) (6), (b) (7)(C) various dates
3.	Memorandum of Interview – (b) (6), (b) (7)(C) dated August 24, 2016
4.	Memorandum of Interview – (b) (6), (b) (7)(C) dated March 14, 2017
5.	Memorandum of Activity – Review of email boxes (b) (6), (b) (7)(C) various dates
6.	Memorandum of Interview – (b) (6), (b) (7)(C) dated August 10, 2016